

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	2:16-CR-00046-GMN-PAL
)	
v.)	GOVERNMENT'S MEMORANDUM
)	IN SUPPORT OF PRETRIAL
)	DETENTION
GREGORY P. BURLESON,)	
)	
Defendant.)	
)	

The United States, by and through undersigned counsel, respectfully submits this Memorandum in Support of its Motion for Pretrial Detention pursuant to The Bail Reform Act, Title 18, United States Code, Section 3142. As explained herein, the government seeks the continued pretrial detention of defendant Gregory P. Burleson (“Burleson”) both as a risk of non-appearance and as a danger to the safety of others and the community.

Burleson was a gunman in an unprecedented and extremely violent and massive armed assault on federal officers that occurred on April 12, 2014, while those officers were performing their duties as part of a court-ordered cattle impoundment operation near Bunkerville, Nevada. But for the courage of the

1 victim officers to back away from their assaulters and abandon the cattle, the
2 actions of Burleson and his co-conspirators would have resulted in catastrophic
3 death or injury to the officers and others. The fact that no one was shot, however,
4 does not mitigate either the level of violence used that day or the intent behind it.

5 Burleson was there because he answered a “call-to-arms” from his co-
6 defendant, Cliven Bundy, to come to Nevada to forcibly stop federal law
7 enforcement officers from the executing court orders to impound his cattle. In
8 response to the call, Burleson knowingly traveled from Arizona to Nevada with
9 firearms and ammunition and the intent to use them against law enforcement
10 officers.

11 Knowingly joining Bundy’s conspiracy, Burleson’s actions on April 12
12 betrayed his desire and willingness to kill cops. This alone compels the conclusion
13 that he is a grave danger to the community and a flight risk.

14 Burleson is charged with crimes of violence including assault on a federal
15 law enforcement officer with a deadly weapon, extortion by force and violence and
16 using and brandishing firearms in connection with crimes of violence under Title
17 18, United States Code, Section 924(c). As such, the Bail Reform Act presumes
18 that there are no conditions or combination of conditions that will ensure the
19 safety of the community. Here, no evidence has been adduced during the
20 investigation of the instant charges that rebuts that presumption. In fact, all the
21 evidence suggests that Burleson will continue to be a threat to law enforcement
22 officers, will not abide by court orders, and will use threats of violence and
23 violence to ensure that federal laws are not enforced as to him and others.
24

I. FACTS

On March 2, 2016, a federal grand jury seated in the District of Nevada returned a Superseding Criminal Indictment, charging Burleson and 18 other defendants with, among other things, conspiring to assault federal officers with a deadly weapons, obstruction of justice, extortion of federal officers by force and violence and use and brandish a firearm in relation to a crime of violence, and the substantive offenses that comprise the objects of the conspiracy, all in violation of Title 18, United States Code, Sections 371; 111(a)(1) and (b); 1503; 1951; and 924(c).

Burleson was arrested in the District of Arizona on the instant charges on March 3, 2015. Burleson made an initial appearance, waived an identity hearing, and requested that his detention hearing be held in this District. Based on the evidence adduced from its investigation to date, the government proffers the following in support of its motion for pretrial detention:

A. Background.

Burleson, who uses the nickname “Wagonburner,” has been active in the so-called militia movement in Arizona for the last several years. He claims to be a member of AIM, the Arizona Independent Militia, of which he is the only member. However, he associates with many other self-described militia groups in Arizona, such as the Sonoran Desert Patrol, and the Arizona First Pathfinders. After receiving a DUI on February 6, 2012, and subsequently losing his job, Burleson made several comments that he was going to harm or kill law enforcement officers if they messed with him further.

1 This type of violent rhetoric increased in frequency and severity leading up
2 to his involvement in the assault and extortion of federal law enforcement officer
3 in April 2014. For example, on March 22, 2014, Burleson shared a link on
4 Facebook and posted, "It's time to start shooting cops... FACT: Nation Wide all
5 LEO's are outnumbered by street gangs 6:1 (2011 FBI official stats) Nationwide
6 We the People Outnumber Gangs 1000:1. We the People do NOT NEED COPS,
7 They need us. Just remember that."

8 On January 5, 2015, Burleson was arrested and charged by the Pinal
9 County Attorney's Office with Aggravated Assault for brandishing a handgun at
10 another driver during a road rage incident. On October 22, 2015, Burleson
11 pleaded guilty to Disorderly Conduct with a deadly weapon (ARS 13-2904), which
12 is a Class 6 uncharacterized, and was sentenced to two years' probation. Currently
13 it is a felony offense, but it will be reclassified as a misdemeanor if Burleson
14 successfully completes probation.

15 It appears Burleson's eyesight began to deteriorate in late 2015. Despite
16 any loss of vision, however, Burleson continues to be a danger to the community
17 for the reasons set forth below.

18 Burleson's co-defendant, Cliven Bundy, 69, is a long-time resident of
19 Bunkerville, Nevada, living on 160 acres of land in a very rural and sparsely-
20 populated area of the state. Bundy Ranch, as he refers to the property, is located
21 near the Virgin River a few miles from where Interstate 15 crosses from Nevada
22 into Arizona, approximately 90 miles northeast of Las Vegas, Nevada. Bundy
23 Ranch is surrounded by hundreds of thousands of acres of federal public lands
24

1 commonly referred to as the Gold Butte area or the Bunkerville Allotment. Bundy
2 uses that entire range of land to graze his cattle unlawfully.

3 Bundy claims he has strong anti-federal government views, proclaiming
4 that the federal government cannot own land under the U.S. Constitution. These
5 are not principled views – and certainly they have no merit legally – but
6 nonetheless serve conveniently as a way for Bundy to somehow try to convince
7 others that he has some reason for acting lawlessly, other than the obvious one: it
8 serves his own ends and benefits him financially. Untethering himself from the
9 law, Bundy claims he can do with his cattle as he pleases, including not incurring
10 the expenses to manage or control them and not paying for the forage they
11 consume at the expense of federal taxpayers.

12 Federal law requires any rancher to pay fees and obtain grazing permits to
13 run cattle on public lands. The evidence suggests that before 1993, Bundy paid
14 fees and kept current the permit his father before him had acquired for grazing
15 cattle on the Bunkerville Allotment. In 1993, however, when BLM restricted both
16 the number of head he could graze and the seasons during which he could graze
17 them, Bundy was faced with the prospect of having to control his herd and bring
18 them off the land during the off-season. It was then that Bundy claimed that he
19 supposedly “fired the BLM” and refused, from then until to the present, to pay any
20 grazing fees or submit to permits.

21
22 It appears that Bundy made some attempt to fight the 1993 restrictions
23 administratively but to no avail. But despite losing, he continued in his scofflaw
24 ways, ignoring BLM regulations and restrictions pertaining to his use of the

1 public lands, allowing his cattle to run wild and refusing to pay for the forage he
2 leached off the taxpayers.

3 Ultimately, the BLM sued him in 1998 for trespass, the case being filed in
4 the United States District Court for the District of Nevada before then-United
5 States District Judge Johnny Rawlinson. Bundy lost the case and Judge
6 Rawlinson issued an order requiring Bundy to remove his cattle permanently from
7 the Bunkerville Allotment (hereinafter “the 1998 Order”). Making the same failed
8 claims he continues to make to this day – the federal government cannot own the
9 land – Bundy appealed the 1998 Order to the Ninth Circuit but lost there also.

10 Undeterred, Bundy simply ignored the 1998 Order, running his cattle as he
11 always had, violating the 1998 Order just as he had all the other rules and
12 regulations governing public lands. In 1999, Judge Rawlinson issued another
13 order, re-affirming the 1998 Order and fining Bundy for each day he refused to
14 remove his cattle. He ignored that Order just as he had the previous one.

15 Thereafter, other attempts were made to remove or have Bundy remove his
16 cattle, all to no avail. The BLM went back to Court in 2012, filing a new lawsuit
17 against Bundy to remove his cattle from the Lake Mead National Recreation Area
18 (“LMNRA”) and also filing a motion to renew the 1998 Order pertaining to the
19 Bunkerville Allotment.

20 United States District Judge Lloyd George presided over the 2012 action.
21 As he had before, Bundy claimed that the federal government could not own the
22 land. However, in keeping with well-established legal precedent, Judge George –
23 like every other previous court – rejected Bundy’s claims in a July 2013 Order and
24

1 required Bundy to permanently remove his cattle from the LMNRA within 45
2 days.

3 The motion in the 1998 action went before United States District Judge
4 Larry Hicks. Like Judge George, Judge Hicks rejected Bundy's claims in an
5 October 2013 Order, re-affirming the 1998 Order and requiring Bundy to remove
6 his cattle from the Bunkerville Allotment within 45 days. The Orders from Judge
7 George and Judge Hicks each authorized the BLM to remove and impound the
8 cattle if Bundy refused to do so, Judge Hicks expressly ordering Bundy not to
9 physically interfere with any seizure or impoundment operation conducted by the
10 BLM.

11 As before, Bundy refused to remove his cattle. Thus, the 2013 Orders in
12 hand, the BLM planned for and commenced impoundment operations beginning
13 around April 5, 2014. From the outset, Bundy interfered. The Superseding
14 Indictment details Bundy's numerous threats to "do whatever it takes" to prevent
15 the BLM from impounding his cattle and the escalating violence and threats of
16 violence he used to impede and disrupt the impoundment, including blocking
17 convoys, assaulting law enforcement officers and terrorizing civilian employees.

18 Most nefariously – and perhaps most relevant to the detention decision here
19 – Bundy recruited gunmen to come to Nevada to confront the federal officers,
20 issuing calls-to-arms over the internet to anyone who would listen to come to
21 Bundy Ranch to confront the officers who were executing the federal court orders
22 to impound the cattle.
23
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1 Burleson answered that call. He traveled from Arizona to Nevada with
2 firearms and with the intent to use them against federal law enforcement officers.
3 There is no evidence that he won't answer the call again.

4 **B. The April 12, 2014, Armed Assault**

5 By April 12 hundreds of people, including gunmen, had answered Bundy's
6 calls-to-arms against the BLM. As the gunmen arrived, Bundy and his co-
7 conspirators organized them into so-called "militia camps," deploying them from
8 there into armed security checkpoints and patrols.

9 On April 12, Bundy rallied his gunmen and other Followers and
10 commanded them to take his cattle back, unleashing over 400 Followers, including
11 at least 60 gunmen, to converge on and assault the BLM's impoundment site,
12 demanding the release of the impounded cattle corralled there. The Superseding
13 Indictment sets out the nature of the assault that day. While the government
14 does not intend to repeat those allegations here, it incorporates them by reference
15 and further proffers as follows.

16
17 • **The April 12 assault was an extremely violent act.**

18 As the Court knows, it is a violation of federal law to use a firearm to
19 assault, interfere with or intimidate a federal law enforcement officer. And
20 contrary to the fiction incanted by Bundy and his Followers to stir up support,
21 there is no First or Second Amendment right, or other right recognized in the law
22 anywhere, that gives anyone the right to use or carry, let alone brandish, raise or
23 point, a firearm in order to assault, intimidate, interfere with or prevent a federal
24 law enforcement officer from performing his or her duties – whether one thinks

1 the officer is acting constitutionally or not. While that should be obvious to any
2 law abiding citizen, Bundy and his Followers, including Burleson, espouse to the
3 contrary.

4 On April 12, Bundy had mustered more than 60 firearms to assault and
5 intimidate federal law enforcement officers while they were performing their
6 duties. The evidence shows that officers confronted an angry array of more than
7 270 Followers directly in front of them, their formation being backed up by
8 gunmen brandishing or carrying rifles and firearms in the wash, or perched on
9 high ground in over-watch positions, or in concealed sniper positions aiming their
10 assault rifles from bridges. The officers guarding the gate that day, almost to a
11 person, thought either they, or unarmed civilians in front of them, or both, were
12 going to be killed or wounded. Many of these officers, some of them combat
13 veterans, remain profoundly affected emotionally by this event to this day.
14 Witnesses have described the level of violence as so intense that something as
15 innocent as the backfire of vehicle, or someone lighting a firecracker, would have
16 set off a firefight between the gunmen and the law enforcement officers.

17
18 The Superseding Indictment charges, and the investigation shows, that
19 Bundy was responsible for recruiting gunmen, including Burleson, to come to
20 Nevada and confront law enforcement officers by force and violence. Bundy and
21 his co-conspirators did so by issuing numerous calls to arms, inciting and
22 soliciting others to bring weapons to Bundy Ranch, to show force, to make the
23 BLM back down, to surrender, and other similar exhortations. The justification,
24 according to Bundy and his followers: BLM was acting unconstitutionally in

1 impounding his cattle. In other words, BLM was enforcing the law and Bundy
2 didn't like it – so he organized an armed assault.

- 3 • **Bundy, his co-conspirators and Followers have pledged to do**
4 **it again.**

5 The evidence shows that this was an unprecedented act. The gunmen
6 traveled great distances in a short period of time, Burleson being only one
7 example among many, answering the call to arms, coming from more than ten
8 states to get to Bundy Ranch to confront the BLM, flooding into the Ranch
9 between April 10 and the morning of April 12. The evidence shows that when the
10 gunmen arrived, the conspirators organized them into camps, armed patrols, and
11 security check points.

12 The evidence shows that Bundy rallied and directed his gunmen and
13 Followers to get his cattle out of the impoundment site on the morning of April 12.
14 Bundy's son, Ammon, led the assault on one of the entrances to the site.
15 Indicative of his intent that day was his statement to another person as he was
16 drove his truck to the impoundment site: "These federal agencies have a lot of
17 power and they are not just going to give that power up. The people just have to
18 take it, I guess."

19 In the immediate aftermath of the assault and extortion, after having
20 delivered the extortionate demands to the SAC, forcing the officers into leaving by
21 threatening violence, Ammon Bundy was asked whether the law enforcement
22 officers were gone for good. Ammon responded: "They better be or the people will
23 do it again."
24

1 In an interview later in the evening on April 12, Ammon Bundy stated:

2 We the people expressed our power and as a result the Sheriff took control
3 of his county. The Sheriff must protect the agency of man. The people have
4 the power -- it's designed that way -- you have the people and then you have
the Sheriff. Sovereign citizens on our own land.

5 Many of these same gunmen who conspired with Bundy and his son to
6 assault the impoundment remain at large and, through Facebook posting and
7 other social media outlets, have pledged to support Bundy again if law
8 enforcement takes any action against him.

9 **C. Post-Assault: April 13 and thereafter.**

10 Immediately after the assault, Bundy and his co-conspirators openly
11 celebrated their use of force, showing the world that not only did they lack
12 remorse for their violent criminal acts – they were proud of them. In an interview
13 posted to the Pete Santilli Show's YouTube channel on or about April 16, 2014,
14 Cliven Bundy was interviewed by an individual named Peter Rense. When asked
15 whether the BLM still had officers in the area, Bundy stated, "We the people and
16 the militia definitely rid this place of any of that kind of influence."
17 See <https://www.youtube.com/watch?v=dI-3qYTMGgU> (last visited February 11,
18 2016). In the same interview, Bundy expressed dismay that the BLM was allowed
19 to leave with their weapons on April 12: "we haven't won the war; we've just won
20 one chapter of it." *Id.* Bundy's characterization of the assault as part of a larger
21 "war" makes clear that his efforts to thwart and interfere with BLM law
22 enforcement officers would carry on.

1 To that end, Bundy relied on gunmen who continued to travel to Bundy
2 Ranch in the months after the assault. Camping in and around what the Bundys
3 designated as “militia camps,” these gunmen engaged in reconnaissance missions,
4 manned check points on public roads, and conducted armed patrols of the area
5 around Bundy Ranch to ensure that law enforcement officers were not present and
6 would not return. Bundy and his conspirators established a firing range on public
7 land which his lead bodyguard used to train other gunmen to protect Bundy and
8 his ill-gotten gains.

9 On April 17, 2014, local Channel 8 news reported on the continued armed
10 presence in the area and stated that “Armed protesters continue to surround the
11 Bundy ranch and are even blocking a county road. Some of the supporters
12 attempted Thursday to keep a Channel 8 news crew from entering the area,
13 despite it being a public road. . . . The armed men say they’ll be at the site for
14 weeks to come to defend the Bundy family.” The news segment included footage of
15 a Bundy guard blocking access to a public road.

16 Organized patrols of the public lands continued all through the summer
17 into the fall of 2014. Additionally, evidence shows that telephone lines with roster
18 information were set up, donation pages on the internet continued to be utilized to
19 solicit funds, and gunmen traveled back and forth from other states to do duty at
20 the Ranch. The purpose of these missions was to ensure Cliven Bundy was not
21 arrested and that BLM did not return to the public lands either to impound the
22 cattle or for any other purpose.
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D. Burleson's Role in the Conspiracy.

Burleson was a gunman in the wash on April 12, and after the assault, participated in armed patrols to prevent further law enforcement action against Bundy and his co-conspirators.

Starting on April 7, 2014, Burleson posted messages on Facebook regarding the impoundment operation in Nevada, sharing with others a link to an article "Feds start rounding up Bundy's cattle in northeastern Clark County" with the message "Government is Theft." On April 9, 2014, Burleson shared a link on Facebook to the post, "MUST WATCH! Bundy Ranch Protestors Attacked, Tazed by Feds" with the message:

"ATTENTION ALL MILITIA AND CONCERNED CITIZENS of America. MILITIA HAS BEEN ACTIVATED AND A CALL FOR HELP HAS BEEN ISSUED BY THE BUNDY FAMILY AND THE TOWN FOLK IN HIS AREA. REPEAT THIS IS NOT A DRILL, CALL TO ARMS! Arizona militia units have been activated and are en route to aid the Bundy Ranch. Nationwide units are en route to Nevada. Contact me for details on the next mobilization to Nevada THIS WEEKEND!"

On April 10, 2014, Burleson posted onto Facebook the following message:

"Okay, I've sent texts to people that I know that do 'Hurr...' lol, anyways I was giving friends the option to GET PAID, you know make some cash, to braid my hair up like Ragnar's from Vikings...no response, I guess some bitches don't really need the money... any ways, I AM PAYING CASH, to ANYONE who can do the braids before 2 AM Saturday... I am going into 'battle' and I'd like to present my adversary a beautiful Scalp/Trophy... if he can survive the journey to collect said trophy. I am dead serious. So, either send a name of someone in Phoenix who can do it or do it yourself and make some bucks. Ready, Set, GO!"

On April 11, 2014, Burleson shared a link on Facebook to the music video "Wait and Bleed- Slipknot (allergic-dubstep mix)" with the message:

1 “I see all those who have gone before me and they beg me to take my place
2 besides them in Valhalla...Feds and BLM have started confiscating
3 weapons from civilians (unconfirmed) 400 more ‘BLM’ rangers are on their
4 way to the Bundy Ranch...I look forward to joining my ancestors in the
5 afterlife. ~WAGONBURNER~ Wish me a Good fight and a GOOD DEATH.”

6 Late in the evening on April 11, 2014, Burleson left Arizona for Bunkerville,
7 Nevada, traveling with other self-described militia members from the supposed
8 Arizona First Pathfinders. Burleson brought with him firearms and ammunition.

9 Video and photographic images show that Burleson was in the wash,
10 brandishing an assault rifle (with its clip inserted), during the assault on the gate.
11 Video images capture Ammon Bundy, a leader on the ground in the wash,
12 motioning for Burleson to move. Burleson then moved to higher ground where he
13 would achieve a better tactical advantage over the law enforcement officers
14 guarding the gate. *See* Exhibit A (Pictures of Burleson in the wash on April 12,
15 2014).

16 The law enforcement officers repeatedly told Burleson and his co-
17 conspirator gunmen to disperse and leave the area. They refused. Many of the
18 victim officers have stated that the movement of the gunmen in the wash, in and
19 out of the assault group, refusing to leave and taking tactically superior positions
20 on the high ground, caused the officers to fear immediate bodily harm or death.
21 At one point, the officers at the gate called out that there were “more guns than
22 they could count.” The movement of the gunmen, like Burleson, gave the
23 assaulters an advantage and caused the officers to lose track of them, further
24 endangering them.

1 Immediately after the assault, Burleson openly celebrated his role in forcing
2 the officers out of the area. Just after the assault ended, Burleson posted pictures
3 of the assault on Facebook with the following comments: "That right there is a
4 True American Militia;" and "Today we drove BLM thugs from the battle, Drove 8
5 hours, no sleep for 24, got there, KICKED ASS and smoked a Cohiba ... Round one
6 is ours, gonna go back in a couple days to make sure the Fed Bastards got the
7 message."

8 Evidence further shows that Burleson returned to the Ranch after April 12,
9 engaging in reconnaissance patrols and manning armed check points on public
10 roads to prevent and deter law enforcement officers from taking further
11 enforcement actions against Bundy and his co-conspirators.

12 After April 12, pictures and videos of Burleson assaulting law enforcement
13 officers went viral both in mainstream media and within the so-called "Patriot"
14 militia community. Burleson embraced his new found fame and became one of the
15 most infamous non-Bundys who participated in the standoff.

16 On April 15, 2014, Burleson upload a photo to Facebook showing him in the
17 wash during the April 12 assault. In response to a comment asking what he was
18 hunting for, Burleson responded, "Federal agents, they are pointing their weapons
19 at me in this photo, I'm ready to take them out..."

20 On May 5, 2014, Burleson shared a link on Facebook to the article "I-Team:
21 Police say Bundy Ranch Protestors not off the Hook" with the message:
22

23 "WTF?!?!?! The COPS were in fear of the lives! Those MUTHER FUCKERS
24 pointed guns at unarmed men women and children and say THEY were in
fear of their Lives?!?!?!? ATTENTION LV Metro, I AM ONE OF THE

1 GUYS WHO POINTED MY WEAPON AT YOU, If you'd like I can notify
2 you when I go up to the ranch again, you can pull me over and TRY to
arrest me, you ain't gonna like the outcome [...]"

3 On May 13, 2014, Burleson warned that he would use force and violence in
4 retaliation for any law enforcement actions against his co-conspirators, sharing
5 an article on Facebook titled "[Video] Metro PD: Militia at Bundy Ranch Who
6 Pointed Rifles at Officers May Still Face Charges" with the message:

7 "They just don't get it. Okay, ATTENTION FBI, Arrest just ONE militia
8 person for the Bundy situation and the rest of us will burn this whole
9 damned thing to the ground. Understand? We The People have the RIGHT
10 to defend our people, again one last Warning, Arrest even One of the militia
from the Bundy Ranch Stand off and WE WILL Burn you to the ground,
that includes your wives and children too..."

11 On May 16, 2014, Burleson stated on Facebook regarding the April 12
12 assault, "We had guns and were ready to die." The same day, he also stated:

13 "The next stand off ... let's just say it is going to go down ... I'm not
14 retraining myself. I must show people how it is done, they still won't follow
15 my lead, but then again, they will be forced to defend themselves, and they
will blame me for starting it, I won't care."

16 On June 3, 2014, Burleson messaged a person on Facebook the following:

17 "Unfortunately I'm in Berserker mode, and will stay there, seems TPTB
18 (The Powers That Be) aren't none too happy about my Nevada Safarai. But
19 that's okay, they know I am in high alert mode, Scuttlebutt says, the party
20 was supposed to start in Nevada but their minions lost their nerve when
21 they realized they would go out in body bags. The next trigger has been
22 squeezed So, cousin, we are gonna have a multi point war happen, Civil
War, Race War, Religious War, Bolsheviks and so on and on. Local boys are
trying to get me to soften up a little...Futile process, considering I have a
target on my back. Soooo, I'm egging them on to make a move, testing their
nerve against mine. Never mess with a man who lives to die in battle..."

23 On January 16, 2015, during a consensually recorded telephone call with an
24 FBI agent, Burleson discussed the April 12 assault. Burleson stated that "we

1 basically boxed in the BLM put them in a kill box. They had nowhere to go.”
2 Burleson admitted that he “had sighted in a couple of guys.” Burleson stated,
3 “[W]e were a fraction of a second away from a blood bath. . . . If a BLM Agent
4 would have shot a tear gas canister. They all would have died.” Burleson also
5 admitted that he had the BLM SAC’s “head right in my sights.”

6 On December 15, 2015, Burleson shared a Facebook post from co-defendant
7 Ryan Payne, stating: “If I am a terrorist for upholding and defending the supreme
8 law of the land and its supporters and upholders, then labels be damned. I’ll
9 continue to uphold the Constitution, support its defenders, and defend The People
10 under any label which they attribute to those actions.”

11 Burleson continued to demonstrate his propensity for violence after the
12 April 12, 2014 assault. On January 5, 2015, Burleson was arrested for
13 brandishing a firearm at another driver on the freeway during a road rage
14 incident. Inside his vehicle he had two handguns with two loaded magazines, an
15 AK-47 with 13 loaded magazines, 20 additional boxes of 7.62 x 39mm ammo, brass
16 knuckles with spikes, camouflage tactical gear, and a handcuff key.
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On December 11, 2015, after Burleson pleaded guilty to charges related to the road rage incident, he took to Facebook to complain about his case and publicly identified his victim and the victim's city of residence and posted the Facebook page of the victim's business.

Burleson has also been an active presence on social media showing his violent disdain for people of the Islamic faith. On May 29, 2015, Burleson attended a "protest rally" for "freedom of speech" and a "draw Mohammed" contest staged in front of the Islamic Community Center of Phoenix (ICCP). The event was put together by Jon Ritzheimer, who has since been charged and detained in connection with charges arising from the armed occupation of the Malheur National Wildlife Refuge in Oregon. During the protest, Burleson wore a hatchet on his hip and associated with numerous other self-described militia members dressed in full camouflage who were armed with handguns and assault rifles.



On June 5, 2015, Burleson posted the following on Facebook: “And so it begins, a call from a Filthy muslim to curtail FREE SPEACH. Note to all muslims, assimilate to OUR CULTURE, Leave or DIE, your choice.”

On July 16, 2015, Burleson posted the following on Facebook: “Need to pay another visit to that mosque by the freeway... Muslim filth kills Marines in Tennessee...ARE YOU MAD YET?! Do we have the moral ground to wipe them from our lands yet?”

1 On October 10, 2015, Burleson attended another protest at the ICCP
2 organized by Ritzheimer. Several armed militia members also attended this
3 protest.

4 On December 14, 2015, Burleson posted the following on Facebook:



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12 Burleson has also taken to Facebook to post violent rants and threats
13 against President Obama. On March 29, 2014, Burleson posted the following on
14 Facebook: "That's ok, he's a walking dead man anyways. HEY FBI and DHS! If
15 this stupid n[****] comes back to Arizona I WILL KILL IT. Try and stop me
16 Bitches. Seriously, you have a One Mile radius to cover, in the WILD WEST. Yes
17 I am dedicated to KILL yer N[*****] and anybody who is on his 'Team'. ~
18 American Militia, Patriot and BERSERKER, you won't be able to stop me."

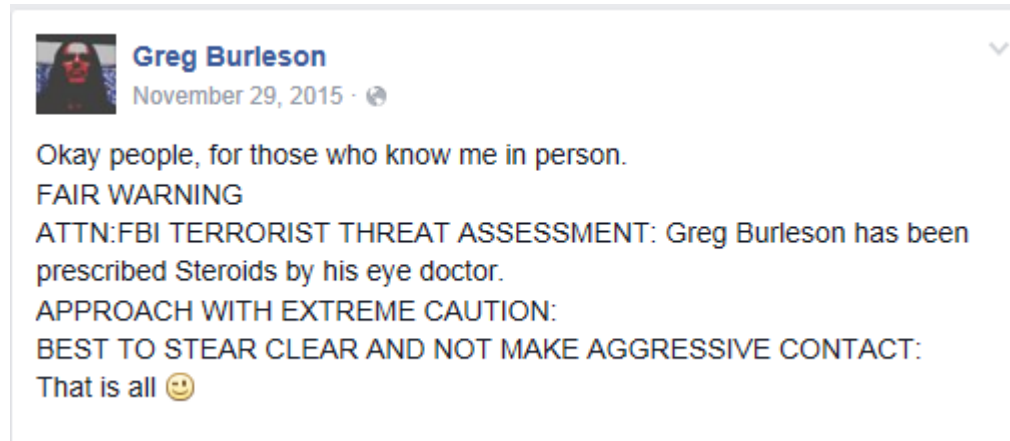
19 On June 3, 2014 Burleson posted the following on Facebook: "Here it IS!
20 Impeach this illegal alien Halfrican, or should we just call him a Islamic N[****]?
21 anyways, Do we get to hang him from a lamp post now?"

22 On June 16, 2014, Burleson posted the following on Facebook:

23 "ATTENTION Obamabot Trolls and ALphabete agencies... Ahem.. Barry
24 Sotero, AKA Barach Obama is an illegal alien, a spy for foreign nations, he

1 is a Islamic PIECE OF SHIT. Obama is a Half breed N[*****] and one day I
 2 HOPE to CHANGE this situation by Stringing that fucking POS Halfbreed
 3 socialist islamic n[*****] from a lamp post in front of the whitehouse as I
 4 burn DC to ASH. Now come and get me, I fucking dare ya... pussies.”

On November 29, 2015, Burleson posted the following on Facebook:



11 On December 20, 2015, Burleson posted to Facebook that, “I’m on the
 12 terrorist watch list. It’s a badge of honor.”

13 II. ARGUMENT

14 The Bail Reform Act provides that a judicial officer shall detain a defendant
 15 pending trial where “no conditions or combination of conditions will reasonably
 16 assure the appearance of the person as required and the safety of any other person
 17 and the community.” 18 U.S.C. § 3142(e). Detention is appropriate where a
 18 defendant poses either a danger to the community or a risk of non-appearance and
 19 it is not necessary to prove both. *See United States v. Motamedi*, 767 F.2d 1403,
 20 1406 (9th Cir. 1985). The government must establish by clear and convincing
 21 evidence that the defendant presents a danger to the community and by a
 22 preponderance of the evidence that the defendant is a risk of non-appearance. *Id.*
 23
 24

1 In determining whether pretrial detention is appropriate, Section 3142
2 provides four factors for the Court to consider: (1) the nature and circumstances of
3 the offense charged, including whether the offense charged is a crime of violence;
4 (2) the weight of the evidence against the defendant; (3) the history and
5 characteristics of the defendant; and (4) the nature and seriousness of the danger
6 posed by the defendant's release. *United States v. Townsend*, 897 F.2d 989, 994
7 (9th Cir. 1990); 18 U.S.C. § 3142(g).

8 Where, as here, there is probable cause to believe that the defendant has
9 committed an offense under Title 18, United States Code, Section 924(c), the court
10 shall presume, subject to rebuttal, that no condition or combination of conditions
11 will reasonably assure the appearance of the person as required and the safety of
12 the community. 18 U.S.C. § 3142(e)(3)(B).

13 At the detention hearing, the Court may properly rely upon a proffer by
14 counsel in determining a defendant's danger to the community or risk of flight.
15 *See United States v. Winsor*, 785 F.2d 755, 756 (9th Cir. 1986) ("[T]he government
16 may proceed in a detention hearing by proffer or hearsay.")

17
18 **A. The Offenses Charged Are Based on Burleson Use of Force**
19 **and Violence, His Promised Use of Force and Violence in the**
20 **Future, and His On-Going Defiance of Federal Court Orders.**

21 Crimes of violence for purposes of the Bail Reform Act include any offense
22 that has as "an element of the offense the use, attempted use, or threatened use of
23 physical force against the person or property of another," and is a felony that "by
24 its nature, involves a substantial risk that physical force against the person or
property of another may be used in the course of committing the offense." *See* 18

1 U.S.C. § 3156(a)(4)(A). Here, eight of the Counts contained in the Superseding
2 Indictment against Burleson are crimes of violence: assault on a federal officer
3 with a firearm and deadly weapon; threatening federal law enforcement officers;
4 extortion by force and violence; conspiracy to impede and injury a federal officer;
5 and Section 924(c) counts as to each.

6 Burleson forced federal law enforcement officers to abandon their duties at
7 gunpoint. He believes his lawless act was justified then and he believes it's
8 justified now. As shown above, he says he would do it again and that he, and
9 others, have some twisted right to supposedly "protect" themselves from law
10 enforcement actions, including their own arrest for the crimes they committed.

11 Burleson is violent and lawless. His violent rants against others, including
12 the President, show that he has not changed his mind about using guns to thwart
13 federal law enforcement authority. As such, he presents a danger to the law
14 enforcement community and, for that matter, anyone who seeks to enforce laws
15 against Burleson that Burleson believes are "unconstitutional." In Burleson's
16 mind, only he is the judge what laws apply to him and should the court release
17 him, only Burleson will decide what laws he will choose to follow and when.

18 Thus, there are no conditions or combination of conditions that any federal
19 court could impose to protect the community from his lawlessness, whether that
20 community is comprised of the citizens using the public lands or federal law
21 enforcement officers and civilian employees attempting to manage the resources
22 and enforce the laws. All are subject to Burleson's whim and his proclivity to use
23 force and violence to make his point.
24

1 Burleson's charges are grounded not only in violence and his lawless acts,
2 but also in his complete disregard for the rule of law. Burleson came to
3 Bunkerville for the express purpose of engaging federal law enforcement officers
4 and brought weapons and ammunition with him.

5 The inescapable corollary is that Burleson will do it again – whether by
6 himself and/or by inciting and encouraging others to act. His rhetoric and his
7 conduct relating to these charges make clear that he has not changed his mind
8 about the federal government, federal law enforcement authorities, or the law. As
9 demonstrated above, Burleson has essentially declared a personal war against the
10 federal government and wishes to die in battle – and take others with him. There
11 has been no evidence adduced during this massive investigation to suggest that he
12 has changed his mind about any of that.

13 If released, Burleson would pose a significant risk of non-appearance,
14 allowing him to hunker down and thereby require law enforcement to face the
15 dangerous task of apprehending him. Thus, there are no conditions or combination
16 of conditions that any federal court could impose to protect the community from
17 his lawless activity, whether that community is comprised of law enforcement
18 officers, the citizens using the public lands or civilian employees attempting to
19 manage the resources and enforce the laws. All are subject to Burleson's threat of
20 violence.
21

22 **B. Substantial Evidence Exists Establishing the Defendant's**
23 **Guilt**
24

1 In the immediate aftermath of the April 12 assault, federal law enforcement
2 officers were forced to abandon the impoundment site, precluding them from
3 conducting an immediate investigation. Out of safety concerns and the need to
4 deescalate the violence and restore order, the remaining local law enforcement
5 officers – who themselves were outnumbered by Bundy’s Followers – allowed the
6 gunmen and the conspirators simply to leave the site without making any arrests,
7 conducting any interviews, taking any statements, or obtaining any identification
8 of the gunmen and other assaulters.

9 Absent contemporaneous arrests and identifications, the investigation
10 became purely historical in nature. The presence of many gunmen in and near
11 the area of Bundy Ranch, the armed checkpoints and patrols, the presence of
12 assault weapons in the militia camps, including (by some accounts) a .50 caliber
13 machinegun, further increased the difficulty of conducting a physical investigation
14 of Bundy Ranch or the impoundment site.

15 All of that said and despite those obstacles, the investigation began the day
16 after the assault and continues to this day, identifying the assaulters, where they
17 came from, how they got to Nevada, their connections to Bundy and others and
18 their role in the assault and the aftermath.

19 To date, the government has conducted hundreds of witness interviews;
20 executed dozens of search warrants; reviewed, organized and analyzed hundreds
21 of thousands of pages of documents (mostly from social media); reviewed,
22 organized and analyzed thousands of pages of telephone records; and organized,
23 reviewed and analyzed hundreds of hours of audio and video recordings.

1 In addition to his numerous statements captured on social media, Burleson
2 is captured in photographs and on video assaulting Federal officers. Burleson
3 himself admitted to the FBI that he had the BLM SAC's "head right in my sights."
4 The evidence overwhelmingly establishes that Burleson was a gunman on April 12
5 as a part of the conspiracy to use force and violence to impede and assault the
6 federal officers conducting impoundment operations on April 12.

7 **C. The Defendant's History and Characteristics Demonstrate the**
8 **Danger and Risk of Non-Appearance He Poses**

9 As discussed above, Burleson expresses no hesitation in his willingness to
10 kill federal law enforcement officers for doing their job. Burleson's actions and
11 words make him unsuitable for court-ordered supervision. He has demonstrated a
12 willingness to engage in armed conflict, in order to address what he describes as
13 violations of the Constitution.

14 Burleson has been accepted by like-minded individuals and would be able to
15 rally support of the self-described militia and patriot community to support
16 Burleson in his mission. Moreover, many of the gunmen at the assault on April 12
17 are still at large and thus available to retaliate for any enforcement action against
18 Burleson, Bundy, or any other co-conspirators. Burleson should not be released so
19 that he is free to muster armed support in retaliation for enforcement actions
20 against Bundy and his co-conspirators, including Burleson.

21 Further, Burleson faces a potentially lengthy prison sentence if convicted of
22 the current charges, including a consecutive seven year mandatory minimum
23 sentence under 18 U.S.C. 924(c). Defendant has a strong incentive to flee because
24

1 of the likelihood of a significant prison sentence if he is convicted. *United States v.*
2 *Townsend*, 897 F.2d at 995 ([F]acing the much graver penalties possible under the
3 present indictment, the defendants have an even greater incentive to consider
4 flight.”).

5 **D. The Defendant Poses a Significant Danger to the Community**

6 As discussed above, Burleson believes in using guns against law
7 enforcement officers because, according to him they have no authority, further
8 making him an unlikely candidate for court-ordered supervision. At a minimum,
9 any release order would require Burleson to abide by all laws. But he has already
10 stated that he does not believe that federal laws apply to him. There is no
11 evidence to suggest that he has changed his mind about that or about his twisted
12 view of the violence at Bundy Ranch, his role in it, or about federal law
13 enforcement officers in general. He has repeatedly stated that he is willing to “die”
14 to supposedly stand up to the federal government. Simply put, Burleson cannot
15 follow the law and he believes his has a right to use a gun when he disagrees with
16 the law.
17

18 **E. Only Pretrial Detention Will Reasonably Assure the Safety of**
19 **Others and the Community and the Defendant’s Future**
Appearance

20 There is no evidence to rebut the presumption of detention in this case. The
21 charges, the evidence, the defendant’s history and the danger posed by his
22 continued release all show that detention is warranted here. As already
23 discussed, any terms of release would have to include a provision that Burleson
24

1 obey all laws. He cannot follow that – he has stated and demonstrated that will
2 not adhere to laws he does not believe in and cannot adhere to.

3 Even the most stringent of conditions are insufficient to assure the safety of
4 the community or the appearance of the Burleson given that ultimately, they must
5 rely on the Defendant's good faith compliance. *See United States v. Hir*, 517 F.3d
6 1081, 1092 (9th Cir. 2008) (Noting that although the defendant and pretrial
7 services proposed "strict" conditions, "they contain[ed] one critical flaw. In order to
8 be effective, they depend on [the defendant's] good faith compliance."); *see also*
9 *Tortora*, 922 F.2d 880, 886 (1st Cir. 1990) (concluding that an extensive set of
10 release conditions contained "an Achilles' heel ... virtually all of them hinge[d] on
11 the defendant's good faith compliance"). In *Tortora*, an alleged member of a
12 prominent mafia family stood trial for crimes under the racketing and organized
13 crime statute. The First Circuit considered the elaborate conditions proposed that
14 would restrict any communications with the defendant's cohorts. Ultimately, the
15 court rejected those conditions, recognizing that "the conditions as a whole are
16 flawed in that their success depends largely on the defendant's good faith-or lack
17 of it. They can be too easily circumvented or manipulated." *Tortora*, 922 F.2d at
18 886.
19

20 Such considerations are doubly present here, given that the Burleson's
21 crimes in this case are rooted in his use of violence in defiance of federal court
22 orders, and that his commitment to flouting federal authority has been
23 maintained in word and deed through the present.
24

III. CONCLUSION

For the reasons stated herein, Burleson cannot rebut the presumption of detention present in this case. Moreover, the government has shown by clear and convincing evidence that Burleson is a danger to the community and poses a risk of non-appearance such that no conditions or combination of conditions will reasonably assure the safety of others or his appearance at future proceedings. Accordingly, the Government respectfully requests that the Court order Burleson detained pending trial.